

Editor's note: Appealed – aff'd in part, rev'd in part, remanded, Civ.No. 78-4045 (D. Idaho June 3, 1982); decision modified on judicial remand – See U.S. v. Elder H. Swanson, 93 IBLA 1, 93 I.D. 288 (July 14, 1986); Reconsideration denied by Order dated Sept. 22, 1986; Appealed – aff'd No. 91-36341 (9th Cir. Sept. 3, 1993), 3 F.3d 1348

UNITED STATES

v.

ELMER H. SWANSON

IBLA 73-338 (Supp.)
(14 IBLA 158, 81 I.D. 14)

Decided February 14, 1978

SUPPLEMENTAL OPINION BY ADMINISTRATIVE JUDGE RITVO

In a decision, United States v. Swanson, 14 IBLA 168, 81 I.D. 14 (1974), the Board directed Swanson within 90 days to amend his millsite claims in accordance with the conclusion it had reached that not all of the areas covered by the seven millsites have been used or occupied for milling purposes. Swanson having failed to submit any amendments, the Forest Service, as our decision required, submitted, on February 14, 1977, its recommendations describing which parts of the claims should be held invalid. Swanson has filed no response to the Forest Service recommendation. The Forest Service recommended that the four westerly claims, the High Tariff, Clara, Little Falls, and Livingstone be declared invalid in their entirety, and the May, Trensvalle and Deadwood, be declared invalid as to the south 620 feet of each.

The Forest service supports its recommendations with an analysis of the use Swanson has and is making of the millsite claims and the area necessary for such use.

In the absence of any objection by Swanson, or any demonstration that the Forest Service's conclusions are invalid, we adopt them as the findings of this Board.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the High Tariff, Clara, Little Falls, Livingstone millsite claims are declared invalid in their entirety and the May, Trensvalle, and Deadwood millsite claims are declared invalid as to the south 620 feet of each

Martin Ritvo
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge.

